

SENATE JOINT RESOLUTION 556
By Burks

A RESOLUTION opposing the Biosphere Reserve designations of the United States Man and the Biosphere Program and urging that the proposed Global Biodiversity Treaty not be ratified by the United States Senate, and that the implementation of strict land use programs and regulations to conform to the Global Biodiversity Treaty and the World Heritage Convention by such agencies as the National Conservation Buffers Initiative, the American Heritage River Initiative (AHRI), the new Watershed Initiative, or other similar initiatives, be terminated.

WHEREAS, the United Nations has promoted a Biosphere Program throughout the world, and the National Conservation Buffers Initiative, American Heritage River Initiative, and other similar programs have been the vehicles used to promote the Global Biodiversity Treaty on a national level; and

WHEREAS, the Biosphere Program threatens to place millions of acres of land under the land use policies dictated by the United Nations via executive agreements with United Nations agencies and/or executive orders; and

WHEREAS, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) has created a worldwide system of 552 Biosphere Reserves and World Heritage sites in 112 nations; and

WHEREAS, 47 United Nations'-designated Biosphere Reserves are within the sovereign borders of the United States, and one (1) United Nations-designated Biosphere Reserve site

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known as the Southern Appalachian Biosphere Reserve is within the state of Tennessee, and the buffer zone of one (1) Biosphere Reserve site known as the Land Between the Lakes Biosphere Reserve extends its boundaries into the state of Tennessee; and

WHEREAS, neither the Tennessee General Assembly nor the United States Congress has considered, debated, or approved such designations; and

WHEREAS, such designations require strict land use management procedures that are set forth in the 1994 Strategic Plan for the United States Man and the Biosphere Program, as published by the U. S. State Department, and further described in the Global Biodiversity Assessment, published by the United Nations Environment Programme, expressly for the Conference of the Parties to the Convention on Biological Diversity; and

WHEREAS, Biosphere Reserves are, by definition, designed to continually expand each of the three zones: core protected zone, managed land use buffer zone, and zone of cooperation or transition area; and

WHEREAS, Biosphere reserves are expected to be the nucleus of the system of core protected areas required by Article 8 of the Convention on Biological Diversity as expressed in the minutes of the first meeting of the Conference of the Parties; and

WHEREAS, no land owner within reach or potential reach of the Biosphere Reserves has input or access to an appeals process, or recourse to land use management policies of UNESCO or the Conference of the Parties to the Convention on Biological Diversity; and

WHEREAS, no elected officials, whether local, state, or federal, have input, access to an appeals process, recourse, or veto power over such land use management policies that may be prescribed by either UNESCO or the Conference of the Parties to the Convention on Biological Diversity; and

WHEREAS, the Convention on Biological Diversity has not been ratified by the United States Senate and the very presence of United Nations Biosphere Reserves on American soil

represents an administrative effort to implement the provisions of an international treaty that has not been ratified; and

WHEREAS, the use of the land in biosphere areas for ordinary commercial or agriculture purposes may be severely restricted or eliminated; and

WHEREAS, none of the current areas included within the UNESCO Biosphere Program in the State of Tennessee have been included at the request of or with the consent of the General Assembly of the State of Tennessee; and

WHEREAS, the Tennessee General Assembly does not believe that a request from the National Park Service or a tourist and convention service, or a non-governmental organization, or a private membership organization or association should be adequate to subject land in the State of Tennessee to the influence of the United Nations or any other foreign parties; and

WHEREAS, the areas encompassed by these reserves include not only public, but also private lands; and

WHEREAS, the placing of environmental or other land use management restrictions upon the use of private lands has been held by a number of recent United States Supreme Court decisions to constitute a taking of land for public purposes; and

WHEREAS, the proposed Biodiversity Treaty, if ratified by the United States, would ultimately lead to Tennesseans not being able to use their private and public lands in the manner to which they have been accustomed; and

WHEREAS, there are no proposals either by the United States or the United Nations to purchase the private lands; and

WHEREAS, the restrictions contemplated, together with the outside control of the land encompassed by a Biosphere Reserve, constitute an unlawful taking of that land in violation of the Constitution of the United States, to wit:

Article I, Section 8, Clause 17, provides that before any state lands can be purchased, the consent of the state legislature (and not the state executive branch) must be obtained.

In Article IV, Section 3, Clause 2, we note that “Nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.”

In Article IV, Section 4, we note that, “The United States shall guarantee to every State in this union a republican form of government.”

Amendment V of the Constitution of the United States provides: “nor [shall any person] be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation”; and

WHEREAS, the virtual ceding of these lands to the management policies of the United Nations leaves the citizens who own the land, local governments, and the State of Tennessee without any legitimate form for redress of grievances and without any opportunity for input into any decision-making process relating to the Biosphere Reserve; and

WHEREAS, under Article VI of the Constitution of the United States, this treaty would be given equal footing with the Constitution of the United States, thus effectively precluding any legal means of redress; and

WHEREAS, the General Assembly of the State of Tennessee does not wish to have portions of Tennessee’s land area controlled by the policies of foreign nations over whom it has no control and who are not subject to its laws; and

WHEREAS, the American Heritage Rivers Initiative program has not been voted upon or approved by the United States Congress or the Tennessee General Assembly; and

WHEREAS, the American Heritage Rivers Initiative would bring the planning and land management powers of thirteen federal agencies upon the sovereign soil and citizenry of Tennessee; and

WHEREAS, the citizens and property owners of the sovereign State of Tennessee may have their constitutional rights and privileges infringed upon, despite such rights and privileges being guaranteed by the Constitution and the Bill of Rights of the United States, as well as by the Tennessee Constitution; and

WHEREAS, the United States Department of Agriculture (USDA) is the author of the National Conservation Buffers Initiative which has never been approved by the United States Congress or the Tennessee General Assembly; and

WHEREAS, the United States Department of Agriculture's National Conservation Buffers Initiative will adversely impact agricultural land and productivity, and restrict private property owner's rights, and/or access to their own property within the sovereign boundaries of the State of Tennessee; and

WHEREAS, there are numerous recent federal court decisions reaffirming and requiring the constitutional protections of individuals' rights by the states, as well as the doctrines of separation of powers and sovereignty; and

WHEREAS, *New York vs. United States* (91-543, 1992, 505 US___, 120 LED2d 120) states: "the Constitution protects state sovereignty for the benefit of individuals, not states or their government"; and

WHEREAS, we, the members of the General Assembly, have sworn an oath to uphold the Constitutions of the United States and the State of Tennessee; and

WHEREAS, we have taken this oath of our own free will and with seriousness before God and the Citizenry of Tennessee; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE-HUNDREDTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, That:

SECTION 1. The General Assembly of the State Tennessee in unalterably opposed to the inclusion of any lands within the borders of this State within the purview of the UNESCO

program, the Biodiversity Treaty, or any other administrative initiative without the express consent of the General Assembly of the State of Tennessee, as provided by the Constitution of the United States and the Constitution of the State of Tennessee.

SECTION 2. The General Assembly urges the members of the Congress of the United States, and especially the Tennessee delegation to the United States Congress, to oppose ratification of the Biodiversity Treaty and the inclusion of any land within the State of Tennessee in any biosphere program of the United Nations.

BE IT FURTHER RESOLVED, That the Chief Clerk of the Senate is hereby directed to transmit copies of the Resolution to the Honorable Bill Clinton, President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Madeleine K. Albright, 2201 "C" Street, N.W., Washington, D.C. 20520; the Honorable Bill Frist, 565 Dirksen Senate Office Building, Washington, D.C. 20510; the Honorable Fred Thompson, 523 Dirksen Senate Office Building, Washington, D.C. 20510; the Honorable Bill Jenkins, 1708 Longworth Office Building, Washington, D.C. 20515; the Honorable John Duncan, 2400 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Zach Wamp, 423 Cannon House Office Building, Washington, D.C. 20515; the Honorable Van Hilleary, 114 Cannon House Building, D.C. 20515, Washington, D.C. 20515; the Honorable Bob Clement, 2229 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Ed Bryant, 408 Cannon House Office Building, Washington, D.C. 20515; the Honorable John Tanner, 1127 Longworth House Office, Washington, D.C. 20515; the Honorable Harold Ford, Jr., 1523 Longworth House Office Building, Washington, D.C. 20515.